REMARKS

In the Office Action dated November 29, 2006, the Examiner has set forth a requirement for restriction under 35 U.S.C. § 121, alleging that the application, with the addition of new claims, contains claims directed the following patentably distinct species:

> **Biological Material**: autologous cells in claims 48 and 58, and growth factors as in claims 49 and 59.

The Examiner alleges that the species are independent or distinct because no species within the above genus would render other species within the same genus obvious. Thus, the Examiner requests Applicants to elect a single species for prosecution on the merits and identify the claims on which the elected species read.

In order to be fully responsive to the Examiner's requirement for restriction, Applicants provisionally elect autologous cells as a single species for prosecution on the merits. Furthermore, Applicants respectfully submit that the elected species, i.e., autologous cells, read on claims 40, 47, 48, 50, 57, and 58. Specifically, claims 48 and 58 recite the elected species, i.e., "autologous cells", and are dependent on claims 47 and 57, which recite "biologically active material" and are dependent on claims 40 and 50, respectively. Therefore, Applicants believe that all of the following claims should be examined as a result of this species election: Claims 40 to 48, and 50 to 58.

Applicants reserve the right to file one or more divisional applications directed to the non-elected subject matter in this application.

Pursuant to provisions of 37 C.F.R. §§ 1.111 and 1.143, Applicants hereby traverse the Examiner's requirement for restriction and request reconsideration thereof in view of the following remarks. It is well understood in biology that "autologous cells" refer to cells that are

reimplanted in the same individual (human or other animal) as they come from, and "growth factors" refer to naturally occurring proteins capable of stimulating cellular proliferation and cellular differentiation. Growth factors are important for regulating a variety of cellular processes and typically act as signaling molecules between cells. Inasmuch as the present invention is directed to methods and materials for enhanced tissue-biomaterial integration, autologous cells and growth factors both relate to the essential concept of the integration of biomaterials with tissues. Thus, Applicants respectfully submit that autologous cells and growth factors are neither independent nor distinct, particularly in view of the subject matter of the present invention.

Upon allowance of a generic claim, Applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 CFR 1.141.

CONCLUSION

Applicants respectfully submit that the present application is in full condition for allowance. Favorable examination of the claims on the merits is respectfully requested. The Examiner is invited to contact the undersigned if any issues remain outstanding after consideration of this Amendment and Response.

Except for issue fees payable under 37 C.F.R.§ 1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R.§ 1.16 and § 1.17 which may be required, including any required extension of time fees, or credit any overpayment to Deposit Account 50-1283. This paragraph is intended to be a **Constructive Petition for Extension of Time** in accordance with 37 C.F.R. § 1.136(a)(3).

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